CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

May 5, 2004 Bellevue City Hall
7:00 p.m. City Council Chambers

COMMISSIONERS PRESENT: Chair Schiring, Vice-Chair Lynde, Commissioners Bach, Maggi, Mathews, Robertson

COMMISSIONERS ABSENT: Commissioner Bonincontri

STAFF PRESENT: Kathleen Burgess, Mary Kate Berens, Heidi Bedwell, Michael Paine, Department of Planning and Community Development

GUEST SPEAKERS: Tom Kahler, The Watershed Company; Claudia Mansfield; Shane Dewald; Greg Ashley; Steve Dennis; Andrew McCormick; Bob Johns; Herbert Westfall

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:09 p.m. by Chair Schiring who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Bonincontri who was excused.

3. APPROVAL OF AGENDA

The agenda was approved by consensus.

4. STAFF REPORTS – None

5. PUBLIC COMMENT – None

6. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCIL, BOARDS AND COMMISSIONS – None

7. STUDY SESSION

A. 2004 Update to the Comprehensive Plan – Environmental Element

Mary Kate Berens, Legal Planner, said the issue on the table focuses on whether or not the scope for the critical areas update should be expanded to include the shorelines. She said the Critical Areas CAC began its work to recommend amendments to the Environmental Element of the Comprehensive Plan in 2001. The charge given the CAC did not include shorelines because of a

decision made by the city based on an interpretation of how the Growth Management Act works with the Shoreline Management Act. The understanding was that the critical areas within shoreline areas are covered by the Shoreline Management Act, and all other critical areas are covered by the Growth Management Act. In 2003 the Growth Management Hearings Board handed down a decision which made it clear that in fact shorelines, where they provide fish and wildlife habitat, are considered critical areas under the Growth Management Act, and that jurisdictions would need to include those critical areas as part of their critical areas updates under the Growth Management Act. The decision by Bellevue to expand the scope and include shorelines was made early in 2004, following the conclusion of the CAC process.

Continuing, Ms. Berens said the Shoreline Management Act carries with it a requirement for all jurisdictions to update their shoreline policies and regulations by 2009; that process will go beyond the critical areas aspects of the policies and include commercial, recreation and enjoyment aspects. The shorelines aspect tied to the critical areas update is focused only on the fish and wildlife habitat provided by the shoreline areas and ensuring the current regulations are in accord with best available science, the standard required by the Growth Management Act.

The Watershed Company biologist Tom Kahler stated that the systems of Lake Sammamish and Lake Washington have not been fully studied. Since 2000, however, there has been a focus on Lake Washington, specifically juvenile Chinook salmon, and quite a lot has been learned. The two lakes have been radically altered from their historic conditions; Lake Sammamish has an outlet control structure and substantial development along the shoreline and in the watershed, and Lake Washington has the same conditions and the atypical hydraulic regime of having high water in the summer and low water in the winter. Furthermore, the water level of Lake Washington was dropped by nine feet in 1916 which promoted shoreline development.

Mr. Kahler shared pictures of the two lakeshores with the Commissioners and pointed out the existence of bulkheads, a general lack of functional shoreline vegetation and fully cleared lots. Pictures of St. Edwards State Park were also shown as examples of what the Lake Washington and Lake Sammamish shorelines probably looked like before becoming developed, with vegetation providing both habitat and shoreline stability.

The nutrient input from trees and insects along the shoreline provides food to all aquatic organisms which ultimately feed the fish. Vegetation also provide microclimate differences in the form of shade which help in the provision of habitat complexity which is important to both fish and wildlife. Where bulkheads have been constructed out into the water, the shallow water habitat has become homogeneous. The result is a disruption of migration corridors for fish and wildlife, both in the water and along the shorelines. There is a prevailing weather pattern along the lake shores that results in sediment transport generally from south to north. Fine sediments get moved readily along by the wave action and get deposited in bays along the way. The creation of bulkheads has resulted in a loss of sediment for the lakes which has resulted in a change in sediment composition. The Cedar River brings in a steady source of new fine sediment, but because of the bulkheads the sediments are deposited only near the tributaries. Because they are not carrying sediment, the competence of the waves to carry material is high and the result is often a lowering of beach profiles in front of bulkheads. Putting a bulkhead in for a particular site will tend to exacerbate the erosion problems for neighboring properties that are adjacent.

Mr. Kahler said with development comes a reduction in the diversity, richness and abundance of all organisms, both fish and wildlife. The rare species, especially those sensitive to habitat disturbance, are often lost, and species that are more capable of accommodating habitat disturbance tend to thrive, such as crows, starlings, and small mouth bass.

Emergent vegetation is vegetation that grows partially submerged along the shoreline. It provides refuge habitat for small organisms and surfaces for algae to grow on, which in turn is fed on by invertebrates, which in turn are fed on by higher animals such as fish and animals. Emergent vegetation also provides attachment surfaces for insects, mollusks, and the eggs of many organisms. Wood and substrate also provide both food and habitat. Shoreline vegetation breaks up wave energy and thus protects the shoreline from erosion. Riparian vegetation slows runoff, which traps sediment and pollutants, and provides food and nesting areas for wildlife. Detritus in the form of leaves and insects drop into the water, and the vegetation serves as a source of woody debris for the lakes.

Mr. Kahler noted that a large study of lakes and their shorelines was conducted in Wisconsin. For the most part lakes in Wisconsin are not as heavily developed as are the shorelines of Lake Washington and Lake Sammamish. However, the study observed a decline in all vegetation classes that closely tracks reductions in the population of songbirds; the specialized birds have been lost, and only the generalists have thrived. The number of amphibians has also been drastically reduced as the shorelines have developed. In the 1940s people began buying land adjacent to lakes and constructing small cabins; those developments had relatively minor impacts on sediment and phosphorous input to the lakes. In the 1990s the development practice changed to one of whole lot clearing. The input of sediment and phosphorous increased drastically as a direct result. Along with sediment comes pollutants, such as phosphorous, resulting in impacts such as algae blooms.

With regard to fish, Mr. Kahler said there are two different phases of entry. The fish that spawn in the streams enter the lakes either as very small fry in January through March; those fish prefer shallow sloped beaches with sand and small gravel, and they do not like large rocks, bulkheads or large docks. The late-entry fish stay in the streams until April and never closely associate themselves with the shoreline.

Any prey organism that cannot find refuge will be exterminated by its predators. Lake dwelling creatures need complex habitat, including shallow water. Big fish in shallow water are at high risk from shore birds. Small fish in deep water are also at risk from larger fish. Fish less than one and a half inches long must stay in less than 12 inches of water to avoid predation. Chinook salmon are preyed on by cutthroat trout, prickly sculpin and northern pike or squawfish. Prickly sculpin are the most abundant fish in the lakes and prey primarily on the early entry fish. Small mouth and large mouth bass, neither of which are native species, do not like cold water and do not overlap the distribution of the Chinook until after April. Yellow perch are abundant in the lakes and have been found to be significant predators of Chinook smolts coming out of Issaquah Creek. Most of the predation in the entire Lake Washington system occurs in the ship canal; because all of the fish must pass through there, the predators concentrate and feed heavily.

Little is known about the large mouth bass. They are less abundant than small mouth bass, and it is known they like soft substrate and aquatic vegetation. They use docks for overhead cover, and they do not like cold water. Small mouth bass tend to like hard substrates, overhanging structures and rocky drop-offs. Small mouth bass are abundant around docks; the bigger the dock and the more pilings there are, the more they seem to like it. A five-inch small mouth bass is large enough to start eating juvenile salmon. They are very disturbance tolerant.

Piers and docks do not seem to limit the amount of food production for fish in Lake Washington or Lake Sammamish. The number of pilings can and do affect sediment migration, and they seem to disrupt the migration of small Chinook fry. Bulkheads act to eliminate shallow water zones, areas that are vitally important to small fish. Bulkheads are avoided by most fish except

for bass and sculpins. Construction of bulkheads is also generally preceded by the removal of all woody debris and riparian vegetation.

Mr. Kahler showed the Commissioners pictures of several non-traditional development alternatives, including pulling bulkheads back beyond the ordinary high water mark and minimizing pier and dock size. Grating installed on docks to allow light to pass through reduces their impact, and spanning the nearshore with a narrow walkway is also helpful. Retaining or replanting vegetation and woody debris is often a permit requirement. Shallow sloped beaches serve to break up wave energy.

Ms. Berens said the city understands that there are values that need to be balanced against the environmental values and functions of shorelines. Uses will continue along the shorelines, and at the regulatory stage there should be built-in incentives and design standards to balance those uses with the functions and values of the environment as new development and redevelopment occurs.

Commissioner Lynde asked how the more traditional bulkhead structures compare in cost with the more sensitive variety. Mr. Kahler said the costs are comparable; in some cases the sensitive approach may be less expensive.

Commissioner Bach asked if docks on piers have different impacts on the environment than docks that float. Mr. Kahler said there are very few floating docks used on Lake Washington and Lake Sammamish. They are frequently used on the Columbia River where size is limited and fifty percent of the area must be grated, which presents engineering challenges. He said he was not aware of any studies comparing fixed pile piers and floating piers to fish response.

Audience questions were handed in to the Chair who read them.

A member of the audience asked if stopping the catch and release of bass would help to eliminate the predator problem. Mr. Kahler said some consideration has been given to taking that approach at the state level. However, there is a bass advocacy group that is very powerful.

Another member of the audience asked if future permitting processes will favor, interfere with or be neutral to the development of non-traditional bulkhead developments. Mr. Kahler said the permitting processes are favorable to the non-traditional approaches. There is not, however, any agreement between the permitting agencies with regard to the appropriateness of placing woody debris. It is possible that placing woody debris will benefit salmon and bass alike.

Another question from the audience centered on what effect there is on wildlife from the Corps of Engineers raising and lowering the level of the lake over the course of each year. Mr. Kahler said the establishment and maintenance of emerging vegetation is very difficult when there is high water during the summer months; that is the growing season for those plants.

Answering another audience question, Mr. Kahler said milfoil is considered by the permitting agencies to be a noxious weed. Property owners are free to remove milfoil and in fact it is a requirement in many revegetation plans. Efforts to control milfoil have been mixed at best. There is a weevil that preys on milfoil when introduced to the water. Milfoil has marched across the country from east to west. Some studies in the Midwest have determined that the plant follows a cycle of establishing itself, taking over everything, and eventually dying back to become just one more plant in the mix. It is not known where the West is in that cycle.

Another audience member asked how to reconcile the fact that salmon avoid shady areas with

the fact that overhanging trees are good for salmon habitat. Mr. Kahler said studies have shown that fish moving along the shoreline and encountering distinct sharp lines between shade and light seem to keep moving. Overhanging vegetation does not create sharp demarcations between light and shade in the same way docks do.

Mr. Kahler was asked his opinion of the recent decision to include farm-raised salmon along with wild juvenile salmon in the allocation of development rights. His response was that the decision could be an attempt to increase population sizes and therefore warrant the de-listing of the fish. In the past the issues related to hatchery and wild fish have been related to lower reproductive successes associated with the offspring of hatchery and wild fish.

Ms. Berens introduced the panelists, each of whom graciously volunteered to appear to voice their personal opinions. The panel members were: Claudia Mansfield, a landscape architect and resident on Lake Washington; Shane Dewald, a member of the Critical Areas CAC and a resident on Lake Sammamish; Greg Ashley, a member of the Critical Areas CAC who has a background in zoology; Steve Dennis, co-chair of the Critical Areas CAC and a retired developer and Lake Sammamish resident; Andrew McCormick, an active member of many environmental organizations and an avid bird watcher; Bob Johns, a land use attorney representing the Master Builders Association; and Herbert Westfall, a Lake Washington resident with an education and engineering background.

The first question put to the panel focused on what values other than fish and wildlife habitat needs should the city be focused on in crafting policies and regulations for the additions of shorelines to the update process.

Mr. Westfall asked how the Commission intends to avoid regulating in isolation, an approach that would certainly not be effective given all of the other regulatory agencies with jurisdiction over the shorelines. Ms. Berens said the city has made contact with all other jurisdictions on the lake. Many of them have come to understand that they will need to include shorelines as part of their Growth Management Act-mandated update work. As the regulations are drafted, there will be continued contact. The city is also coordinating with the Corps of Engineers, fisheries and the state to ensure consistency of standards and requirements.

Ms. Dewald said public safety should be a consideration. The no-wake floats recently installed in some shoreline areas along Lake Sammamish provide a public safety benefit and help reduce the impacts of wave action from passing boats. There perhaps should also be a means for making it safe for people to access the fuel they need to use the lake in a way that will not increase opportunities for additional water pollution. Property value and property rights should be carefully considered. The way the lake level has been managed over time, along with the impact of development of the area overall and what that has meant with regard to wave action, should also be considered. There should be a cooperative effort between the city and shoreline property owners who have suffered the impacts of changes over time. The costs to the citizens at large resulting from restrictive measures and their enforcement should be considered.

Mr. Dennis said Bellevue is an urban area; it is not an alpine lake area. Some of the non-traditional approaches to development will work only on large lots that are relatively flat. For all other areas there are few choices left with regard to house placement. The focus should be on redevelopment instead of new development given that the lake shores have already been developed. People should know that they will be able to replace their docks if they float away in a storm, and their bulkheads should they collapse. The policies should reflect the reality that not all of the non-traditional approaches will work in all areas. Nothing should be done that will suddenly make hundreds of uses non-conforming.

Mr. Johns highlighted the need for the policies and regulations to include flexibility; all properties are different and there should be some mechanism to give property owners different approaches to try when redeveloping. The regulations will also need to be well thought out so property owners will have incentive to want to keep them. View protection is the biggest issue.

Ms. Mansfield said possible economic losses must be kept in mind when creating policies and regulations. Setbacks are one matter to consider. Many lots along the lakes are very small, and if the required setback is increased, the size of homes that can be built will be reduced dramatically. The smaller property owners would be harmed far more than the larger property owners. One approach to that issue would be to set percentage limits on setback increases. The studies to date have been inconclusive with respect to whether or not increasing the setbacks even has a positive impact. Bulkheads have been used along the shorelines for many years to protect property frontage from wave action. For some properties requiring them to be set back from the ordinary high water mark could mean moving them as much as 15 feet. Removing some but not all of the bulkheads will only create more problems; unless they are all removed there will be increased erosion generally. Property owners without docks should be permitted to build one at least to the outer limits of the two adjacent docks.

Mr. McCormick suggested that most Audubon members would likely support the changes recommended by the plan. However, many of those Audubon members are also property owners. The bulk of the problems have been inherited from development practices of the past, and some changes are needed to preserve and improve the wildlife habitat along the lakeshore. All policies and regulations developed, however, should be aimed at promoting fairness and recognizing the financial investments made.

The second question put to the panelists was focused on what information property owners should receive from the city when making decisions about how to manage shoreline properties in a way that is sensitive to fish and wildlife habitat needs.

Mr. Dennis suggested that if people fully understood the alternatives, many of which are practical and simple, they would willingly step forward to incorporate them. The City should serve as an educator in helping property owners gain necessary information. Property owners should be better informed with regard to exactly what is meant by the term “ordinary high water mark.”

Ms. Dewald agreed, adding that development of a publication showing a variety of alternatives could be useful. Many property owners assume that the alternatives will be unattractive and undesirable. If the city were to offer to share in the cost of designing alternative approaches, property owners may be willing to step forward and make the improvements.

Mr. Ashley noted that some of the information the City will need to provide will depend on what the federal and state governments do with regard to regulations. Currently the direction being provided by the various agencies conflict with each other. For instance, placement of wave break rocks works very well to protect shorelines and obviating the need for a bulkhead, but the state does not allow for that alternative.

Ms. Berens asked what incentives the City could provide to encourage property owners or developers to manage properties or design projects near the shorelines in ways that are sensitive to fish and wildlife habitat needs. Mr. McCormick suggested that the City could offer some very specific incentives to shoreline property owners. Financial incentives would be very important; the City Council could provide native plants as an incentive, and could also act to remove from

the tax rolls any land lost as a result of mitigation efforts. The shorelines are important from a fish and wildlife point of view, but they also make the city a more livable place, and in that respect preservation of the shorelines should rest on the shoulders of all citizens.

Mr. Johns said the development community is very nervous about things such as increasing buffers, especially given that many waterfront properties are very small to start with. Instead of larger buffers, the focus should be on smarter buffers. Over the last 20 years there has been in nearly all jurisdictions a trend toward making buffers bigger rather than better. Tradeoffs in buffer width should be offered for steps taken to improve the function of buffers. Many scientists are coming to realize that much of the value of a buffer happens closest to the critical area; that is particularly true of lakes where many believe 85 percent of the benefit happens in the first 15 or 20 feet of buffer from the water's edge. Incentives for engaging in restoration efforts should be seriously considered by the city.

Mr. Westfall suggested that since milfoil is a significant problem in Meydenbauer Bay, the City should consider citywide incentives for dealing with the noxious weed. Controlling the weed would help improve the water quality of the bay and remove habitat for bass.

Ms. Dewald said there was considerable support within the Critical Areas CAC for a two-zone buffer approach. The idea was to do a better job of providing protections for critical areas with increased management over a larger land base. The best available science information does not, however, provide any basis for simply making the buffers wider.

Ms. Berens asked what changes have been seen in the shoreline environment over the years, and how the changes have impacted the shoreline experience. Mr. Westfall said he has lived on Meydenbauer Bay for more than 50 years. Over that time the quality of the water in the lake has improved. He noted that in the Commission draft the list of surface water beneficial uses should include water quality as the top priority. Maintaining habitat for fish and wildlife will undoubtedly involve some degradation of the recreation culture of the lake, not just for the waterfront property owners but for all residents who use the lake.

Mr. Dennis said Lake Sammamish is an urban lake and has been for many years. He said in the 20 years he has lived on the lake there have been very few development changes over all; while there has been redevelopment, all of the lots were previously developed with urban uses to one degree or another. No new bulkheads have been built; the shoreline is armored currently the same as it was 20 years ago. The quality of the water in the lake has not visibly changed either.

Ms. Mansfield concurred. She shared that in the years she has lived on the lake the number of bald eagles and blue herons has increased dramatically, along with other migratory birds. The suggestion that redevelopment has had an impact is hard to believe. The changes over time have been positive.

Mr. McCormick commented that all of the lakes in Bellevue are very important wintering sites for waterfowl. During the migratory seasons thousands of birds pass through the area, and the lakes provide stopping and resting points for waterfowl. Different types of waterfowl use different parts of the lake to meet their needs; some use the shoreline area, others prefer deep water. Over time the ability of the lake to support bird life has improved. Major environmental protection programs initiated have worked to preserve the bald eagle, the osprey and the peregrine falcon. The shoreline area that is of most importance to bird life is the first 10 or 15 feet from the shore. It is not necessary to plant rows of tall trees to provide habitat; what the birds really need are understory plants, such as willow and dogwood that hangs over the water and provides shade. Warblers and other songbirds are not commonly found along Lake

Washington because they lack habitat along the shore. Construction techniques often involve removing all of the shrubbery in favor of planting lawns, something that is attractive to starlings, house sparrows and crows. If habitat is restored, the birds will return. If each property owner were to plant a few native shrubs on the corners of the their properties where they meet the shoreline, a sufficient amount of habitat and protection would be created.

Continuing, Mr. McCormick said when the water level of the lake is increased during the summer months, the nesting birds that prefer to eat in the shallow areas are precluded from doing so. Waterfowl and certain shorebirds are thus discouraged from nesting around Lake Washington.

Mr. Westfall suggested that any regulatory changes required specifically to meet state law should be isolated from the local regulations. They would likely be better received that way.

Mr. McCormick highlighted the need to control pollutants at their sources. Water runoff, particularly from lawns and roadways, is particularly harsh on water systems. The city should continue participating in efforts to monitor water quality in both lakes. There should be some policies developed regarding the use of chemically treated wood in projects around the lakes. The levels of fecal coliform bacteria in the lakes should also be closely monitored; in many instances that pollution is coming from septic tanks.

Mr. Johns noted that stormwater protection standards have increased dramatically over the past 10 or 15 years. The stormwater ponds that must be constructed under the current standards for a typical residential development are about 12 times bigger than they were ten years ago, which imposes a significant financial impact on the cost of housing. While phosphorous and other chemicals continue to flow into the lakes, it is not coming from new developments which are required to have protections in place; the greatest polluter of the lakes continues to be the roadways, with I-90 being the worst offender.

Ms. Mansfield observed that the report has very little to say about water quality. No mention is made of either pesticides or lawn fertilizers and their effect on salmon and salmon habitat. In determining the best available science, peer review may be needed. Lake Washington contains a lot of different habitats and could accordingly be classified using a lot of different methodologies. Depending on the policies and goals, the Council may choose to improve habitat in some areas, such as areas identified as places where salmon lay eggs, but not in others. The lakes are part of the urban landscape and the city should carefully consider the development that is already in place.

Ms. Dewald said policy to protect and enhance the urban forest canopy in Bellevue should be focused on the entire watershed and all uses within it. All of the various systems need to work together in harmony. The lake shorelines are built out, and focusing only on properties that have yet to develop will have little or no effect on conditions necessary to sustain the salmon. The true differences will result from having better management practices and property owner incentives with good buy-in.

Commissioner Lynde thanked the panelists for their participation and encouraged them to attend the upcoming public hearing. She stressed the importance of the issue and the need for the Commission to hear a variety of viewpoints.

From the audience the comment was made that new construction along the waterfront appears to be taking advantage of all present setbacks. If no changes are made, the lakeshores will become walls of newly constructed homes. Commissioner Lynde said throughout Bellevue the same

type of thing is occurring with new development; older homes are being torn down and the new homes being built are taking full advantage of the setbacks. One of the issues the CAC talked about is the general increase in impervious area that is resulting, and accordingly there is a need to view the issue from the standpoint of the entire watershed, not just the waterfront.

Commissioner Robertson informed the audience that one topic on the Commission's plate is the Housing Element. She encouraged all to attend the Commission meetings and make their positions known as that work goes forward.

Another member of the audience noted that water iris is taking over the shoreline and asked if the city supports the reduction of water iris as a noxious weed. Ms. Berens said she would have to look into the classification of water iris. Mr. Westfall suggested that if water iris is classified as a noxious weed it should be treated as such.

Commissioner Maggi said she was hearing a lot of people wanting flexibility and decisions made on a case-by-case basis depending on the best available science, which is not clear in all cases. All in all there is a lot of ambiguity involved about what will have to be done to mitigate. If ambiguity is going to be built into the system, the city is going to have to be prepared to deal with it as applicants seek permits for development. In most cases consistency should be the goal.

Mr. Dennis suggested that staff in Bellevue is very willing to work with applicants on a case-by-case basis. However, developers and property owners prefer certainty with a little bit of flexibility built in. The regulations should be as specific as possible but not so restrictive that nearly everything becomes a negotiation; that is bad for the property owners and a huge burden for staff. Gray zones should be avoided wherever possible.

Mr. Johns said he would prefer to see a regulatory system that establishes a baseline and allows for options to do something different if it can be shown that the result will be as good or better.

Commissioner Maggi stated that in fact shoreline property owners serve as stewards of the resource and asked how they feel about that. Ms. Mansfield said she personally takes the responsibility seriously. She said her children swim in the water and enjoy the aquatic life. She said she has a lawn but does not fertilize it or use any pesticides. In addition nothing is used to treat the wood on the dock. Many other waterfront property owners feel the same way and act accordingly. In developing regulations for the shoreline, the city should focus on those regulations that will positively impact the lakes and not those that will negatively impact the property owners.

Ms. Dewald said it has been a dream come true to be able to live on Lake Sammamish. She agreed that remodeling that is resulting in a wall of homes along the lakefront is an issue to be faced by the City. Protecting the visual quality of the shoreline should be a goal of the City so that everyone can enjoy the lakes.

Mr. McCormick suggested that stewardship of the lake is an important value for all Bellevue residents to take seriously. The proposed regulations will ultimately place the most burden on those who own property on the lakes, but in fact everyone bears some responsibility for protecting the lake and its ecosystems. If people are allowed to see their tax burden reduced by the amount of land lost because of setbacks and the like, all property owners in the city would have to pay an increased tax to make up the difference, and in that way all could share in the burden.

From the audience it was stated that the water quality of Lake Sammamish has steadily declined

over the past 50 years. It was suggested that Bellevue should take responsibility for storm sewers and step up to current standards as streams, not culverts.

An audience member spoke as the owner of a small house built more than 30 years ago that is located only about 25 feet from the edge of the water. The person wanted to know how the new regulations will affect that property. Ms. Berens allowed that generally speaking none of the regulatory changes contemplated will apply to existing developments unless changes are made to the property.

Chair Schiring thanked the panelists for their contribution to the process. He then revised the agenda by moving up Public Comment.

10. PUBLIC COMMENT

Mr. Burt Harns, 2406 West Lake Sammamish Parkway, said the water level in Lake Sammamish is higher in the winter and lower in the summer. He said where his beach is currently about 10 feet wide, by late August it will be 20 feet wide. In November the water will rise four or five feet, often within days; 15 years ago the water level rose much slower. The change is due to the paving over of too many properties. The watershed area for Lake Sammamish is huge, and everything in that area that falls from the sky, drips from a faucet or drains from a car ends up in the lake. High water levels in the winter combined with storms and wind result in beach erosion. Most bulkheads in Lake Sammamish were constructed to protect against winter storm damage. A water drainage system located close to his home serves some 50 houses, and every time it rains there is an oil sheen flowing out of the culvert. Along with the oil there are pesticides and all manner of other pollutants. The drainage into the lake from the myriad of homes only compounds the problems, yet the focus seems to be only on the waterfront properties and what should be done to preserve those spaces. On Lake Sammamish there are no gas docks and the boat owners dribble fuel into their boats from gas cans, and that is everyone who uses the lake. A good gas dock should be constructed along with a restaurant so that everyone can use it.

Mr. Milton Halvorson, 1054 West Lake Sammamish Parkway NE, said he lived on Lake Washington during the war years and has been on Lake Sammamish since 1955. He said his home is very small and not unlike many others that were constructed long ago. Many of the older homes have been torn down and redeveloped with very large homes. The regulations being talked about will do little since most of the damage has already been done. Some semblance of fairness must be brought into the mix. Too much blame and burden is being placed on the shoulders of the existing homeowners.

Ms. Sally Sumner, 3804 170th Avenue SE, said drainage into Lake Sammamish from its greater watershed area is a major issue that has in large part been overlooked by Bellevue. Redevelopment over the past 30 years has created enormous impervious surfaces, and the runoff from those places has nowhere to go but into the lake. The City's engineers have been non-responsive and have taken no responsibility whatsoever. The Commission should consider the watershed runoff as a major impact on the lake.

Ms. Zora O'Reilly, address not given, said she has been a resident on Lake Sammamish for 54 years. She said development has already occurred. The bulkheads have been constructed. The fight is between the owners of small homes and the developers of huge homes being placed in between them. The city has not acted to place limitations on such redevelopment. All of that, however, is minor when compared with open culverts running from the roadways straight to the lake. Bellevue should come to life and figure it out that the lake is being harmed by all that unfiltered drainage. The damage has already been done by allowing the development to happen,

and the damage cannot be fixed by imposing regulations on existing property owners. The conditions of the lakeshore are not the same all the way around. Near the Baker settlement, the docks need to be 100 feet long in order to get to deeper water; other areas are able to get along with much shorter docks because the water is deeper. Some properties need bulkheads; others do not. There must be flexibility to adjust to the conditions on a case-by-case basis. There is also a big difference between Lake Sammamish and Lake Washington; a single set of rules will not work for both.

7. STUDY SESSION

B. 2004 Update to the Comprehensive Plan – Environmental Element (continued)

Commissioner Lynde called attention to the first paragraph under the Water Resources goal on page 27 of the packet and suggested that some concerns could be addressed by removing the phrase "in order of priority." She allowed that all of the listed beneficial uses are important.

Michael Paine, Environmental Issues Planning Manager, pointed out the priority order was heavily debated by the Critical Areas CAC. They changed the language of the Comprehensive Plan to reflect a new order of priority. He said he would be reluctant to see the wording changed without some serious discussion. He pointed out that in 1987 when the first critical areas ordinance was adopted for Bellevue, much of the focus was on storm water conveyance. Streams were seen as means to convey storm water, and that is one reason the CAC elected to place preservation of natural resources at the top of the list.

There was agreement to revisit the matter at a future study session.

Calling attention to policy EN-11 on page 32, Commissioner Lynde said she would like to see emphasized the need to retrofit storm drainage systems. She agreed that protection of critical areas will need a focus wider than just the shorelines. Ms. Berens said there are references to the drainage system scattered throughout the draft that could possibly be consolidated.

Commissioner Maggi agreed with the need to have a more concentrated effort to address systemwide runoff and water quality issues. The policies should be written to emphasize the commitment of the City to improving its infrastructure. Ms. Berens said there are several policies in place that address those issues. Because they are not specific to the lakes, they are not proposed for revision. She said she could pull some of those out and highlight them at the next study session.

Answering a question asked by Commissioner Maggi, Ms. Berens said the Critical Areas CAC two-zone buffer recommendation was formulated before shorelines was made a part of the package. If the ultimate decision of the Commission is not to change the two-zone concept, staff will still need to look at how it would apply in the shorelines areas given the comments made about the size of lots and the best available science. Commissioner Maggi said she was hesitant following the last Commission meeting to consider moving away from the two-zone approach as recommended by the CAC, but was more willing to consider it after hearing the public testimony in favor of more flexibility.

Commissioner Maggi asked if anywhere in the policies there is a recognition of the differences between Lake Washington and Lake Sammamish. Ms. Berens said there is nothing specific and agreed that there should be some language added delineating the distinctions.

Commissioner Bach asked if the proposed policies and regulations will include all lakes in Bellevue, or just Lake Washington and Lake Sammamish. Ms. Berens said all lakes are considered critical areas and regulated as such, but not all are considered shorelines of the state and therefore not all are regulated by the Shoreline Management Act.

Answering a question asked by Commissioner Maggi, Mr. Paine explained that a shoreline property owner seeking to remodel their home needs only a permit from the city. If their work involves work below the ordinary high water mark, they will likely need two additional permits, one from the Corps of Engineers and one from the Department of Fisheries. The various permitting agencies are attempting to work together to develop abbreviated permit processes for activities aimed at work designed specifically to improve the environment, such as removing bulkheads and replacing them with non-traditional approaches.

Commissioner Bach asked what jurisdiction the Muckleshoot tribe has over the lakes. Mr. Paine answered that the tribe has certain fishing rights. He said he was not sure what other rights the tribe may have.

B. Land Use Code Amendment
– Shoreline Overlay District

Associate Planner Heidi Bedwell said the city is undertaking a study to review the ordinary high water mark on Lake Sammamish. The intent is to study the feasibility of establishing a reference point from which to measure structure setbacks. Under the current approach the ordinary high water mark is determined on a site-by-site basis. The original Bellevue Shoreline Master Program used a static elevation of 27 feet to determine where shoreline rules apply and how far back structures must be set, but the Department of Ecology has indicated that approach is not appropriate.

Ms. Bedwell said the city has contracted with a consultant to design a study methodology to assess the ordinary high water mark along Lake Sammamish. The methodology is currently being peer reviewed by an outside consultant to make sure the approach is statistically sound. Some field work will be done in early June by the consultants, and a report from them will be drafted and submitted in July. An ordinance will be drafted based on the report and will be brought before the Commission for review toward the end of the summer.

8. OLD BUSINESS

Ms. Burgess allowed that no date had yet been determined for the annual Commission retreat. She said the thinking was that it should be a Wednesday in June.

9. NEW BUSINESS – None

11. ADJOURNMENT

Chair Schiring adjourned the meeting at 10:30 p.m.